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October 30, 2017

By ECF

Hon. Joan M. Azrack, U.S.D.J.
United States District Court
Eastern District of New York
100 Federal Plaza
Central Islip, New York 11722

Hon. Steven I. Locke, U.S.M.J.
United States District Court
Eastern District of New York
100 Federal Plaza
Central Islip, New York 11722

Re: *Ma, et al. v. Harmless Harvest Inc.*, No. 16-7102 (E.D.N.Y.)
Request for Motion for Leave to File Declarations

Dear Judge Azrack and Judge Locke:

I regret having to trouble the Court with a second letter motion so shortly after our motion to expedite, but I am compelled to seek leave to file two supplemental declarations to rebut falsehoods presented in Mr. Lee's letter opposition to our motion to expedite ("Opposition") (Dkt. 27).

First, Mr. Lee stated that there was "no effective service" under Fed. R. Civ. P. 5. Opposition 2. As Exhibit 1, I attach the declaration of CCAF paralegal Ashley Burdick, to provide testimony that the relevant documents were served via overnight USPS delivery, and to authenticate documents refuting Mr. Lee's false statement.

Second, Mr. Lee indicated that no motion was sent to him alongside the October 23, 2017 Rule 11 letter (now docketed at Dkt. 26, Ex. A). Opposition 2. As Exhibit 2, I attach the supplemental declaration of Anna St. John, to provide testimony that she was cc'd (along with Defense counsel, Mr. Wolinsky) on an email sending Mr. Lee both the letter and a notice of motion. Moreover, St. John's supplemental declaration lays the factual foundation for contentions made in the October 23,

2017 Rule 11 letter and is necessary to disprove certain assertions contained in Plaintiffs' Response to the Objections of Anna St. John and Jason Bowerman (Dkt. 25).

Good cause exists to grant this motion. "If a material misrepresentation comes in the adversary's reply brief, the appellee may ask for leave to file a supplemental statement." *Custom Vehicles, Inc. v. Forest River, Inc.*, 464 F.3d 725, 726 (7th Cir. 2006). The same is true of district court proceedings. *Guadagni v. New York City Transit Auth.*, 387 Fed. Appx. 124, 125-26 (2d Cir. 2010) (suggesting motion for leave to file as the remedy for "new material" in district court "reply papers"); *Nat'l Union Fire Ins. Co of Pittsburgh, PA v. BP Amoco P.L.C.*, No. 03-cv-0200 (GEL), 2003 WL 1618534, at *1 (S.D.N.Y. Mar. 27, 2003) (allowing submission of supplemental affidavit to rebut new material raised in reply brief). If St. John is not allowed leave to file the attached declarations, she may sustain prejudice from the uncorrected record.

Respectfully,

A handwritten signature in black ink, appearing to read "A. Schulman", with a stylized, cursive script.

Adam E. Schulman

CERTIFICATE OF SERVICE

The undersigned certifies he electronically filed the foregoing Letter Motion via the ECF system for the Eastern District of New York, thus sending the Motion in writing to the Clerk of the Court and also effecting service on all attorneys registered for electronic filing.

Dated: October 30, 2017

By: /s/ Adam Schulman
Adam Schulman